

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Appellants	:	Todd Ouzts, et al.		
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Examiner	:	Dennis G. Bonshock		
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	:	COLLECTION		
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VIA EFS – 17 August 2007**APPELLANTS' APPEAL BRIEF**

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is an Appeal from a Final Office Action mailed 16 January 2007, rejecting claims 1, 5-12, and 14-20. These claims have been at least twice rejected. Appellants, having filed a Notice of Appeal within the time period provided under 37 C.F.R. § 41.31(a), accompanied by the fee set forth in 37 C.F.R. § 41.20(b)(1), do hereby submit this Appeal Brief along with the fee set forth in 37 C.F.R. § 41.20(b)(2). The Commissioner is hereby authorized to charge any additional fee that may be due, or credit any overpayment, to Deposit Account No. 19-2112.

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I. REAL PARTY IN INTEREST

The real party in interest is Microsoft Corporation, a corporation of the State of Washington, United States of America.

II. RELATED APPEALS AND INTERFERENCES

None.

III. STATUS OF CLAIMS

Claims 1, 5-7, 9-12, and 15-20 are pending, and the rejection of each of those claims is being appealed.

IV. STATUS OF AMENDMENTS

An amendment was filed on 16 March 2007, subsequent to the Final Office Action dated 16 January 2007. In the amendment, claims 16 and 20 were amended to correct minor informalities. In the advisory action mailed 02 April 2007, the Office indicated that the amendment filed on 16 March 2007 would be entered if the application was appealed. Another amendment was filed 19 July 2007 to cancel claims 8 and 14. Appellants believe this amendment was entered by the Office on 31 July 2007. A listing of all claims currently pending is reproduced in the Claims Appendix.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The instant Application includes four independent claims: 1, 9, and 15-16.

Claim 1

Independent claim 1 defines a method that is used by a computer having a graphical operating environment. The graphical operating environment provides a collection of items **206** within a container **200**, where the container **200** includes an outer appearance **202**. *Appellants' Specification at p. 10, ll. 17-20.* The method enumerates the items **206** that exist within the container **200**. *Appellants' Specification at p. 13, ll. 10-12.* For each enumerated item **206** within the container **200**, the method determines whether a graphical preview can be generated. *Appellants' Specification at p. 13, ll. 14-17.* A list is generated to identify each item **204** for which a graphical preview can be generated. *Appellants' Specification at p. 14, ll. 4-8.* In turn, the method selects, from the list, a desired number of items **204** to display on the outer appearance **202** of the container **200** based upon a sort criteria, wherein the sort criteria selects the items **204** based upon those items **206** which were most recently modified in some way. *Appellants' Specification at p. 14, ll. 9-23.* The method displays the graphical previews for each of the selected items **204** on the outer appearance **202** of the container **200**, wherein the graphical previews are not folders, and the graphical previews are generated by a thumbnail extractor based on extensions associated with the selected items. *Appellants' Specification at p. 16, ll. 10-20.* The graphical previews are located in a desired location on the outer appearance **202** of the container **200** to enable a computer user to quickly identify the contents of the container **200** without opening the container **200**. *Appellants' Specification at p. 13, ll. 10-15 and p. 15, ll. 11-15.*

Claim 9

Independent claim 9 defines a method that is used by a computer system to display less than all of a collection of content items within a container. The method displays a background appearance **202** for the collection of content items **206**. *Appellants' Specification at p. 10, ll. 17-20.* In turn, the method determines if any of the collection of content items **206** can be graphically represented. *Appellants' Specification at p. 13, ll. 14-17.* When some of the collection of content items **206** can be graphically represented, the method sorts the content items **206** that can be graphically represented based on a sort criteria and the sorted content items **204** are displayed on the background appearance **202** for the collection of content items **206**. *Appellants' Specification at p. 14, ll. 9-23.* A textual message is also displayed on the background appearance **202** having the sorted content items **204**. *Appellants' Specification at p. 12, ll. 18-20.*

Claim 15

Independent claim 15 defines a computer system for displaying less than all of a collection of content items on a display using a graphical operating environment. The graphical operating environment of the computer system includes an item collection manager for providing a collection of content items **206** within a container **200**, the container **200** having a background appearance **202**. *Appellants' Specification at p. 13, ll. 9-12.* Additionally, the graphical operating environment includes a container display provider for sorting the collection of content items **206** based on a sort criteria and displaying graphical previews of the sorted content items **204**, without displaying all content items **206**, on the background appearance **202** of the container **200**. *Appellants' Specification at p. 13, l. 13-p. 14, l. 20.* The container display provider also displays a textual message on the background appearance **202** of the container **200** to enable a computer user to more easily identify the

contents of the container **200** without opening the container **200**. *Appellants' Specification at p. 12, ll. 18-20.*

Claim 16

Independent claim 16 as currently amended defines a computer system for displaying a collection of content items on a display using a graphical operating environment. The graphical operating environment of the computer system includes a background appearance rendering component for the collection of content items **206**. *Appellants' Specification at p. 15, ll. 10-13.* Additionally, the graphical operating environment includes a graphical preview rendering component for determining if any of the collection of content items **206** can be graphically represented. *Appellants' Specification at p. 13, l. 10-p. 14, l. 13.* For content items **206** that can be graphically represented, the graphical preview rendering component sorts the content items **206** and renders graphical previews of the sorted content items **204** that can be graphically represented on a background appearance **202**. *Id.* Additionally, the graphical preview rendering component displays a textual message in addition to the background appearance **202** and the graphical previews. *Appellants' Specification at p. 12, ll. 18-20.* The graphical operating environment also includes a thumbnail extractor that generates the graphical previews based on the extensions associated with at least one of any of the collection of content items **204**, wherein the graphical preview are not folders. *Appellants' Specification at p. 16, ll. 10-23.*

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A) Whether claims 9-12, 15, and 18-19 are unpatentable under 35 U.S.C. § 103(a) as being unpatentable over Baecker *et al.* (US Patent No. 5,586,237), Scott *et al.* (US Patent No. 6,545,687), and Gill (US Patent No. 6,947,959).

B) Whether claims 1, 5-7, 16-17, and 20 are unpatentable under 35 U.S.C. § 103(a) as being unpatentable over Baecker *et al.* (US Patent No. 5,586,237), Scott *et al.* (US Patent No. 6,545,687), Gill (US Patent No. 6,947,959), and Hatanaka *et al.* (US Patent No. 5,680,558).

VII. ARGUMENT

35 U.S.C. § 103(a) declares, a patent shall not issue when “the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.” The Supreme Court in *Graham v. John Deere* counseled that an obviousness determination is made by identifying: the scope and content of the prior art; the level of ordinary skill in the prior art; the differences between the claimed invention and prior art references; and secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1 (1966). To support a finding of obviousness, the initial burden is on the Office to apply the framework outlined in *Graham* and to provide some reason, or suggestions or motivation found either in the prior art references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the prior art reference or to combine prior art reference teachings to produce the claimed invention. *See, Application of Bergel*, 292 F. 2d 955, 956-957 (C.C.P.A. 1961). Recently, the Supreme Court elaborated, at pages 13-14 of the *KSR* opinion, that “it will be necessary for [the Office] to look at interrelated teachings of multiple [prior art references]; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by [one of] ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the [patent application].” *KSR v. Teleflex*, No. 04-1350, 550 U.S. ____ (2007).

A) Rejection under 35 U.S.C. § 103(a) over US Patent Nos. 5,586,237, 6,545,687 and 6,947,959

Claims 9-12, 15, and 18-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent No. 5,586,237 issued to Baecker et al. (hereinafter Baecker), US

Patent No. 6,545,687 issued to Scott et al. (hereinafter Scott) and US Patent No. 6,947,959 issued to Gill. As Baecker, Scott, and Gill, whether taken alone or in combination, fail to teach or suggest all limitations of claims 9-12, 15, 18, and 19, Appellants respectfully traverse this rejection, as hereinafter set forth.

(i) Claims 9-12 and 18

It is respectfully submitted that independent claim 9 is allowable over the cited prior art, Baecker, Scott, and Gill, because all limitations of claim 9 are not taught or suggested. With respect to independent claim 9, Baecker, Scott, and Gill, alone and in combination, fail to teach or suggest, among other things, “sorting content items that can be graphically represented based on a sort criteria to display the sorted content items on a background appearance for the collection of content items.”

The Office concedes that Baecker and Scott fail to teach or suggest sorting content items that can be graphically previewed based on a sort criteria to display the sorted content items on a background appearance. However, the Office contends that Gill, at FIG. 20, col. 2, l. 39-col. 3, l. 40, col. 16, ll. 12-14, col. 17, ll. 18-25 and col. 18, ll. 13-16, in combination with Baecker and Scott teaches the claimed sorting content items and displaying the content items on the background appearance.

The cited portions of Gill teach a query interface that allows a user to formulate search criteria for digital assets and a “query palette,” which displays results of the query. The search criteria specified by the user may include a last date of modification. Nothing in Gill fairly teaches or suggests sorting a collection of content items that can be graphically represented, where the collection of content items are stored within a container. Additionally, Gill fails to

teach or suggest displaying graphical previews for the sorted collection of content items on a background appearance. Baecker and Scott fail to remedy the deficiency of Gill.

Typically, prior-art references that are contradictory, or teach away from each other or the claimed invention should not be combined to support a *prima facie* case of obviousness. *In re Bell*, 991 F.2d 781, 784, (Fed. Cir. 1993). A reference may be said to teach away from the Appellants' claimed invention when a person of ordinary skill in the art, upon reading the reference, would be led in a direction divergent from the path that was taken by the Appellants or if the reference suggests that the line of development flowing from the reference's disclosure is unlikely to be productive of the result sought by the Appellants. *In re Gurley*, 27 F.3d 551, 553 (Fed. Cir. 1994). A secondary reference may be said to teach away from a primary reference when a person of ordinary skill in the art, upon reading the secondary reference, would be discouraged from following the path set out in the primary reference. *Id.* If when combined, the references would produce a seemingly inoperative device, then they teach away from their combination. *In re Spinnoble*, 405 F.2d 578, 587 (C.C.P.A. 1969).

Here, Baecker, Scott, and Gill teach away from each other and the invention of independent claim 9. Baecker is directed toward generating content-based animation frames to display all icons within a folder. Scott is directed toward grouping images and redefining aspect ratios to enable zooming for the grouped images. Gill is directed toward generating queries to search for digital assets having specified conditions. Although each reference generally teaches displaying content, the specific problems solved by each reference is different. The combination of Baecker with Scott and Gill would render Baecker unsatisfactory for its intended purpose of generating content-based animation frames for all icons. Baecker in combination with Scott and Gill would result in providing a query interface

to search folders having thumbnails of varying aspect ratios to locate a subset of thumbnails having a specified condition. Baecker's content-based animation is rendered inoperable when combined with Scott and Gill because the principle of presenting all icons as required by col. 6, l. 55-col. 7, l. 10 of Baecker is done away with in an attempt to achieve the results of the invention of independent claim 9, i.e., displaying, on a background appearance, graphical previews of less than all of the collection of content items.

Moreover, unlike Baecker, Scott, and Gill, alone and in combination, the invention of independent claim 9 requires, among other things, displaying graphical previews of sorted content items that can be graphically represented on a background appearance based on a sort criteria. The combination of Baecker, Scott, and Gill fails to fairly teach or suggest the background appearance that displays the sorted collection of content items having graphical previews. Accordingly, for at least the foregoing reasons, Appellants respectfully request withdrawal of the obviousness rejection and allowance of independent claim 9.

Dependent claims 10-12 depend on independent claim 9 and further define novel features of the claimed invention. Accordingly, for at least the reasons set forth above, claims 10-12 are allowable by virtue of their dependence on independent claim 9. See, *37 C.F.R. 1.75(c)*.

(ii) Claim 18

Dependent claim 18 depends from independent claim 9 and further defines novel features of the claimed invention. Accordingly, for at least the reasons set forth above, claim 18 is allowable by virtue of its dependence on independent claim 9. See, *37 C.F.R. 1.75(c)*.

Additionally, it is respectfully submitted that dependent claim 18 is allowable over the cited prior art because all limitations of claim 18 are not taught or suggested. With respect to

dependent claim 18, Baecker, Scott, and Gill, alone and in combination, fail to teach or suggest, among other things, “wherein the graphical previews are pictorial representations of one or more images associated with the at least one of the content items.”

The Office contends that Baecker, at FIG. 6, col. 4, ll. 20-25, and col. 7, ll. 21-29; or Scott, at col. 13, ll. 35-67, col. 7, ll. 28-64, and FIGS. 14-15, teaches or suggests the graphical previews of the sorted collection of content items are pictorial representations of one or more images associated with at least one item contained within the container. The cited portion of Baecker teaches icons and providing animated frames having colored squares to represent the icons. The cited portions of Scott teach thumbnail images. However, nothing in Scott, Baecker, or Gill, fairly teaches or suggests graphical previews of the sorted collection of content items are pictorial representations of one or more images associated with at least one of the content items.

Unlike Baecker, Scott, and Gill, alone and in combination, the invention of dependent claim 19 requires, among other things, graphical previews of sorted content items that are pictorial representations of one or more images associated with at least one of the content items. The combination of Baecker, Scott, and Gill fails to fairly teach or suggest the pictorial representations of one or more images associated with at least one of the content items. Accordingly, for at least the foregoing reasons, Appellants respectfully request withdrawal of the obviousness rejection and allowance of dependent claim 18.

(iii) Claim 15

It is respectfully submitted that independent claim 15 is allowable over the cited prior art because all limitations of claim 15 are not taught or suggested. With respect to independent claim 15, Baecker, Scott, and Gill, alone and in combination, fail to teach or suggest, among

other things, “a container display provider that sorts the collection of content items based on a sort criteria to display graphical previews of the sorted items on a background appearance of a container.”

The Office concedes that Baecker and Scott fail to teach or suggest the claimed sorting of items within a container and displaying the sorted items on the background appearance of the container. However, the Office contends that Gill, at FIG. 20, col. 2, l. 39-col. 3, l. 40, col. 16, ll. 12-14, col. 17, ll. 18-25 and col. 18, ll. 13-16, in combination with Baecker and Scott teaches or suggests displaying sorted graphical previews of a collection of content on a background appearance of a container.

The cited portions of Gill merely describe a query palette that provides search results in response to a search query. The query palette is configured to display thumbnails. The query palette includes accessories that may be utilized to group or sort the results based on header information, such as, modification time or file name. However, the query palette is not a container having a background appearance. Moreover, Gill does not fairly teach or suggest the sorted collection of content items is within a container having a background appearance. Baecker and Scott fail to remedy the deficiency of Gill.

As discussed above, with respect to independent claim 9, Baecker, Scott, and Gill are contradictory and should not be combined to support a *prima facie* case of obviousness because the combination renders Baecker inoperable. For at least those reasons, Baecker, Scott, and Gill should not be combined to support a *prima facie* case of obviousness.

Additionally, unlike Baecker, Scott, and Gill, the invention of independent claim 15 requires, among other things, a container with a collection of content items that includes a background appearance that displays graphical previews of sorted content items so that less

than all of the collection of content items within the container are presented on the background appearance. Based on a sort criteria, the background appearance is rendered to prevent a display of the entire collection of content items on the background appearance of the container. The combination of Baecker, Scott, and Gill fails to teach or suggest the invention of independent claim 15. Accordingly, for at least the foregoing reasons, Appellants respectfully request withdrawal of the obviousness rejection and allowance of independent claim 15.

(iv) Claim 19

Dependent claim 19 depends from independent claim 15 and further defines novel features of the claimed invention. Accordingly, for at least the reasons set forth above, claim 19 is allowable by virtue of its dependence on independent claim 15. See, *37 C.F.R. 1.75(c)*.

Additionally, it is respectfully submitted that dependent claim 19 is allowable over the cited prior art because all limitations of claim 19 are not taught or suggested. With respect to dependent claim 19, Baecker, Scott, and Gill, alone and in combination, fail to teach or suggest, among other things, “wherein the graphical previews are pictorial representations of one or more images associated with the at least one item.”

The Office contends that Baecker, at FIG. 6, col. 4, ll. 20-25, and col. 7, ll. 21-29; or Scott, at col. 13, ll. 3567, col. 7, ll. 28-64, and FIGS. 14-15, teaches or suggests the graphical previews of the sorted collection of content items are pictorial representations of one or more images associated with at least one item contained within the container having a background appearance. The cited portion of Baecker teaches icons and providing animated frames to represent icons. The cited portions of Scott teach thumbnail images. However, nothing in Scott, Baecker, or Gill, fairly teaches or suggests graphical previews of the sorted collection of

content items are pictorial representations of one or more images associated with the at least one item contained within the container having a background appearance.

Unlike Baecker, Scott, and Gill, alone and in combination, the invention of dependent claim 19 requires, among other things, graphical previews of sorted content items that are pictorial representations of one or more images associated with at least one item contained within the container having a background appearance. The combination of Baecker, Scott, and Gill fails to fairly teach or suggest the pictorial representations of one or more images associated with at least one item contained within the container. Accordingly, for at least the foregoing reasons, Appellants respectfully request withdrawal of the obviousness rejection and allowance of dependent claim 19.

B) Rejection under 35 U.S.C. § 103(a) over US Patent Nos. 5,586,237, 6,545,687, 6,947,959 and 5,680,558

Claims 1, 5-7, 16-17, and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent No. 5,586,237 issued to Baecker et al. (hereinafter Baecker), US Patent No. 6,545,687 issued to Scott et al. (hereinafter Scott) and US Patent No. 6,947,959 issued to Gill (hereinafter Gill), and US Patent No. 5,680,558 issued to Hatanaka et al (hereinafter Hatanaka). As Baecker, Scott, Gill, and Hatanaka, whether taken alone or in combination, fail to teach or suggest all limitations of claims 1, 5-7, 16-17, and 20, Appellants respectfully traverse this rejection, as hereinafter set forth.

(i) Claims 1 and 5-7

It is respectfully submitted that independent claim 1 is allowable over the cited prior art because all limitations of claim 1 are not taught or suggested. With respect to independent claim 1, Baecker, Scott, Gill and Hatanaka, alone and in combination, fail to teach or suggest, among other things, (1) generating a list of items for which a graphical preview can be

generated, wherein the graphical previews are not folders and the graphical previews are generated by a thumbnail extractor based on extensions associated with the items; and (2) selecting, from the generated list, a desired number of items to display on the outer appearance of a container based upon a sort criteria, wherein the sort criteria selects the items based upon those items which were most recently modified.

The Office concedes that Baecker, Scott, and Gill fail to teach or suggest the claimed generating a list of items for which a graphical preview can be generated, wherein the graphical previews are not folders and the graphical previews are generated by a thumbnail extractor based on extensions associated with the items. However, the Office contends that Hatanaka in combination with Baecker, Scott and Gill teaches the claimed graphical previews for items, which are generated by a thumbnail extractor based on extensions associated with the items. Appellants respectfully disagree. Hatanaka, at FIG. 10, FIG. 11, and col. 1, ll. 16-36, col. 5, ll. 30-50, col. 6, l. 63-col. 7, l. 11, teaches that a header associated with a file is processed to determine whether a file is an audio file. If the file does not have an header indicating that the file is an audio file, the file is opened to allow a user to specify portions of the file that should be utilized to create a thumbnail. If the header specifies that the file contains audio data, a waveform is generated to represent the file. Nothing in Hatanaka, Baecker, Scott, and Gill, alone and in combination, teaches or suggests a thumbnail extractor that generates graphical previews of the items in a container based on the extensions associated with each item in a collection of items stored in the container having an outer appearance that presents the sorted graphical previews.

Further, the Office concedes that Baecker, Scott, and Hatanaka fail to teach or suggest the claimed sorting of graphical previews to display on the outer appearance of a container as

defined in independent claim 1. The Office contends that Gill in combination with Baecker, Scott, and Hatanaka teaches or suggests the claimed sorting of graphical previews. Appellants respectfully disagree. Gill at FIG. 10 teaches a query interface that is utilized to formulate search criteria for digital assets. Gill, at col., 17, ll. 60-65, col. 18, ll. 5-10, FIG. 11, and FIG. 20, further teaches a “query palette,” which is a results interface that displays the results of the query, which include thumbnail images. Furthermore, Gill, at col. 17, ll. 5-6, teaches that an accessories feature enables the user to group or sort the query results based on information included in headers associated with the digital assets. Gill, at col. 16, ll. 10-15, teaches that the header includes date of last modification. However, the “query palette” as taught by Gill is not an outer appearance of a container for a collection of items, wherein the outer appearance presents graphical previews of a desired number of items that were recently modified.

Additionally, as discussed above, with respect to independent claim 9, Baecker, Scott, and Gill are contradictory and should not be combined to support a *prima facie* case of obviousness because the combination renders Baecker inoperable. For at least those reasons, Baecker, Scott, Gill and Hatanaka should not be combined to support a *prima facie* case of obviousness.

Unlike Baecker, Scott, Gill and Hatanaka, the invention of independent claim 1 requires, among other things, a thumbnail extractor that generates graphical previews of the items based on the extensions associated with each item. Additionally, the invention of claim 1 expressly requires displaying graphical previews of sorted items on the outer appearance of a container that stores a collection of items, including the sorted items. The combination of Baecker, Scott, Gill, and Hatanaka does not fairly teach or suggest the claimed thumbnail extractor and the outer appearance of the container in the manner claimed in independent claim

I. Accordingly, for at least the foregoing reasons, Appellants respectfully request withdrawal of the obviousness rejection and allowance of independent claim 1.

Dependent claims 5-7 depend on independent claim 1 and further define novel features of the claimed invention. Accordingly, for at least the reasons set forth above, claims 5-7 are allowable by virtue of their dependence on claim 1. See, *37 C.F.R. 1.75(c)*.

(ii) Claim 17

Dependent claim 17 depends from independent claim 1 and further defines novel features of the claimed invention. Accordingly, for at least the reasons set forth above, claim 17 is allowable by virtue of its dependence on independent claim 1. See, *37 C.F.R. 1.75(c)*.

Additionally, it is respectfully submitted that dependent claim 17 is allowable over the cited prior art because all limitations of claim 17 are not taught or suggested. With respect to dependent claim 17, Baecker, Scott, Gill, and Hatanaka, alone and in combination, fail to teach or suggest, among other things, “wherein the graphical previews are pictorial representations of one or more images associated with the at least one item.”

The Office contends that Baecker, at FIG. 6, col. 4, ll. 20-25, and col. 7, ll. 21-29; or Scott, at col. 13, ll. 3567, col. 7, ll. 28-64, and FIGS. 14-15, teaches or suggests the graphical previews of the sorted collection of content items are pictorial representations of one or more images associated with at least one item contained within the container having a outer appearance. The cited portion of Baecker teaches icons and providing animated frames to represent icons. The cited portions of Scott teach thumbnail images. However, nothing in Scott, Baecker, Hatanaka, or Gill, fairly teaches or suggests graphical previews of the sorted collection of content items are pictorial representations of one or more images associated with

the at least one item contained within the container having an outer appearance that presents the pictorial representations.

Unlike Baecker, Scott, Hatanaka, and Gill, alone and in combination, the invention of dependent claim 19 requires, among other things, graphical previews of sorted content items that are pictorial representations of one or more images associated with the at least one item contained within the container having an outer appearance. The combination of Baecker, Scott, Hatanaka, and Gill fails to fairly teach or suggest the pictorial representations of one or more images associated with at least one item contained within the container are display on the outer appearance of the container. Accordingly, for at least the foregoing reasons, Appellants respectfully request withdrawal of the obviousness rejection and allowance of dependent claim 17.

(iii) Claim 16

It is respectfully submitted that independent claim 16 is allowable over the cited prior art because all limitations of claim 16 are not taught or suggested. With respect to independent claim 16, Baecker, Scott, Gill, and Hatanaka, alone and in combination, fail to teach or suggest, among other things: (1) a thumbnail extractor that generates graphical previews for a collection of content items based on extensions associated with each content item in the collection; and (2) a graphical preview generator component for sorting content items that can be graphically represented and for rendering graphical previews of the sorted content items on a background appearance.

The Office concedes that Baecker, Scott, and Gill fail to teach or suggest the claimed thumbnail extractor that generates graphical previews for a collection of content items based on extensions associated with each content item in the collection. However, the Office contends

that Hatanaka in combination with Baecker, Scott and Gill teaches the claimed thumbnail extractor as defined in claim 16. Appellants respectfully disagree. Hatanaka, at FIGS. 10-11, col. 1, ll. 16-36, col. 5, ll. 30-50, col. 6, l. 63-col. 7, l. 11 teaches that a header associated with a file is processed to determine whether a file is an audio file. As discussed above, when the header of a file indicates the file is not an audio file, a user specifies portions of the file to utilize as the thumbnail. If the header specifies that the file is an audio file, a waveform is generated to represent the file. Nothing in Hatanaka teaches or suggest the thumbnail extractor as defined in claim 16.

Moreover, the Office concedes that Baecker, Scott, and Hatanaka fail to teach or suggest a graphical preview generator component for sorting content items that can be graphically represented and for rendering the graphical previews of the sorted content items on a background appearance. The Office contends that Gill in combination with Baecker, Scott and Hatanaka teaches the claimed sorting of graphical previews. Appellants respectfully disagree. As discussed above, Gill teaches a query interface that is utilized to formulate search criteria for digital assets and a “query palette,” which displays results of the query. The query may include a last date of modification. However, the “query palette” as taught by Gill is not a background appearance that presents graphical previews of sorted content items.

Additionally, as discussed above, with respect to independent claim 9, Baecker, Scott, and Gill are contradictory and should not be combined to support a *prima facie* case of obviousness because the combination renders Baecker inoperable. For at least those reasons, Baecker, Scott, Gill and Hatanaka should not be combined to support a *prima facie* case of obviousness.

Unlike Baecker, Scott, Gill and Hatanaka, the invention of claim 16 requires, among other things, a thumbnail extractor that generates graphical previews of the items based on the extensions associated with each item. Additionally, the invention of claim 16 expressly requires displaying graphical previews of sorted items on a background appearance. The combination of Baecker, Scott, Gill, and Hatanaka fails to fairly teach or suggest the claimed thumbnail extractor and the background appearance that displays the graphical previews as claimed in claim 16. Accordingly, for at least the foregoing reasons, the obviousness rejection of claim 16 and should be withdrawn.

(iv) Claim 20

Dependent claim 20 depends on independent claim 16 and further defines novel features of the claimed invention. Accordingly, for at least the reasons set forth above, claim 20 is allowable by virtue of its dependence on claim 16. See, 37 *C.F.R.* 1.75(c).

Additionally, it is respectfully submitted that dependent claim 20 is allowable over the cited prior art because all limitations of claim 20 are not taught or suggested. With respect to dependent claim 20, Baecker, Scott, Gill, and Hatanaka, alone and in combination, fail to teach or suggest, among other things, “wherein the graphical previews are pictorial representations of one or more images associated with the at least one item.”

The Office contends that Baecker, at FIG. 6, col. 4, ll. 20-25, and col. 7, ll. 21-29; or Scott, at col. 13, ll. 3567, col. 7, ll. 28-64, and FIGS. 14-15, teaches or suggests the graphical previews of the sorted collection of content items are pictorial representations of one or more images associated with at least one item contained within the container. The cited portion of Baecker teaches icons and providing animated frames to represent the icons. The cited portions of Scott teach thumbnail images. However, nothing in Scott, Baecker, Hatanaka, or

Gill, fairly teaches or suggests graphical previews of the sorted collection of content items are pictorial representations of one or more images associated with at least one item contained within the container.

Unlike Baecker, Scott, Hatanaka, and Gill, alone and in combination, the invention of dependent claim 20 requires, among other things, graphical previews of sorted content items that are pictorial representations of one or more images associated with at least one item contained within the container. The combination of Baecker, Scott, and Gill fails to fairly teach or suggest the pictorial representations of one or more images associated with at least one item contained within the container. Accordingly, for at least the foregoing reasons, Appellants respectfully request withdrawal of the obviousness rejection and allowance of dependent claim 20.

Appellants respectfully submit that claims 1, 5-7, 9-12, and 15-20 are in condition for allowance. As such, Appellants respectfully request that the rejection of the claims be reversed and that a timely Notice of Allowance be issued in this case. Should there be any unresolved matters, please contact the undersigned.

Respectfully submitted,

Date: 17 August 2007.

/Monplaisir Hamilton/

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VIII. CLAIMS APPENDIX

1. (Previously Presented) A method for use on a computer having a graphical operating environment, comprising:

providing a collection of items within a container, the container having an outer appearance;

enumerating the items that exist within the container;

determining whether a graphical preview can be generated for each enumerated item;

generating a list of items for which a graphical preview can be generated;

selecting, from the generated list, a desired number of items to display on the outer appearance based upon a sort criteria, wherein the sort criteria selects the items based upon those items which were most recently modified in some way;

displaying graphical previews for the selected items on the outer appearance of the container, wherein the graphical previews are not folders, and the graphical previews are generated by a thumbnail extractor based on extensions associated with the selected items; and

locating the graphical previews on the outer appearance in a desired location, thereby enabling a computer user to more easily identify the contents of the container without opening the container.

Claims 2-4 (Cancelled).

5. (Previously Presented) The method of claim 1, wherein said displaying step includes sizing the preview on the outer appearance.

6. (Previously Presented) The method of claim 1, wherein said displaying step further includes determining whether a graphical preview image has previously been generated and stored, and if so, displaying the previously generated preview.

7. (Original) The method of claim 1, wherein the preview is a thumbnail image of an item contained within the container.

Claim 8. (Canceled).

9. (Previously Presented) A method in a computer system for displaying a collection of content items within a container, comprising:

displaying a background appearance for the collection of content items;

determining if any of the collection of content items can be graphically represented;

if any of the collection of content items can be graphically represented, sorting the content items that can be graphically represented based on a sort criteria and displaying on said background appearance graphical previews for the sorted content items that can be graphically represented, and

displaying a textual message in addition to the background appearance and the graphical previews, without displaying the entire collection of content items.

10. (Original) The method of claim 9, wherein the container is a folder and the background appearance is that of a closed file folder.

11. (Original) The method of claim 9, wherein the container is a folder and the background appearance is that of a photo-album.

12. (Original) The method of claim 11, wherein said at least one graphical preview is a preview of an electronic picture contained within the folder.

Claim 13-14 (Canceled).

15. (Previously Presented) A computer system for displaying a collection of items on a display using a graphical operating environment, comprising:

an item collection manager for providing a collection of items within a container, the container having a background appearance; and

a container display provider for sorting the collection of items based on a sort criteria, displaying graphical previews of the sorted items on the background appearance of the container and for displaying a textual message in addition to the background appearance and the graphical previews, without displaying the entire collection of content items,

thereby enabling a computer user to more easily identify the contents of the container without opening the container.

16. (Previously Presented) A computer system for displaying a collection of content items on a display using a graphical operating environment, comprising:

a background appearance rendering component for a container of the collection of content items;

a graphical preview rendering component for determining if any of the collection of content items can be graphically represented, for sorting the content items that can be graphically represented, for rendering graphical previews, on a background appearance, of the sorted content items that can be graphically represented and for displaying a textual message in addition to the background appearance and the graphical previews, wherein the graphical previews are not folders, and the graphical

previews are generated by a thumbnail extractor based on the extensions associated with the at least one of any of the collection of content items.

17. (Previously Presented) The method according to claim 1, wherein the graphical previews are pictorial representations of one or more images associated with the at least one item.

18. (Previously Presented) The method according to claim 9, wherein the graphical previews are pictorial representations of one or more images associated with the at least one of the content items.

19. (Previously Presented) The method according to claim 15, wherein the graphical previews are pictorial representations of one or more images associated with the at least one item.

20. (Previously Presented) The system according to claim 16, wherein the graphical previews are pictorial representations of one or more images associated with the at least one of any of the collection of content items.

IX. EVIDENCE APPENDIX

Not applicable.

X. RELATED-PROCEEDINGS APPENDIX

Not applicable.